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THE

Right of Electing SHERIFFS

OF

LONDON and *MIDDLESEX*,

Briefly ſtated and declared.

'TIS the preſent unhappy *Fate* of this great and ancient City, to be betray'd by perſons foſtered within her Walls, and raiſed and enriched through the benefit of her Franchiſes and Priviledges. How many, whoſe Hereditary Fortunes could not furniſh them with Bread, are ſwell'd to a bigneſs ready to burſt, by having ſuckt at her Breaſts, and like Vipers, after they have been nouriſhed in her Womb, they ſtate their intereſt in gnawing her entrails, and ſtabbing her in her Vital parts?

The Antiquity of *London* is ſuch, that no *Records* can determine her Beginning. Her ſubſiſtence as a Corporation is immemorial; and no Regiſters of the affairs of former times, can define or determine when her Greatneſs, Prerogatives, and Priviledges commenced and begun. *Taci-tus* ſaith of her above Fifteen Hundred years ago, *That ſhe was a City famous for Trade and Commerce.* And *Cambden* aſſures us, *That above 360 years ſince, ſhe was ennobled with the Title of* Auguſta, which was a Name of the higheſt Honour and Dignity that any City was capable of: and then he further tells us, *the Biſhop of this famous City was preſent at the Council of* Arles, *which was held under* Conſtantine *the Great.* Yea, *Heylin* and *Howel*, whom our *Tories* ſo much Reverence and admire, have ſo far in this matter conſulted Truth and their own Reputation, that the firſt of theſe Authors acknowledgeth, *ſhe was a City of great renown in the time of the* Roman *conqueſt*; and the ſecond confeſſeth, *That ſhe was anciently not only the Epitome and Abridgment of the Kingdom, but* Caput Regum & Legum, *the Head both of Kings and Laws.*

Annal. 14.

Britain, fol. 305.

Nor is the Citizens Right of chuſing Officers, particularly *Sheriffs*, founded originally upon their *Charters*, but it belonged unto them by the Common Law of *England*, as appears by the Statute of *Ed.* 1. *cap.* 8. and 13. and *Cooks* Commentary upon it, wherein all he hath ſaid relating hereunto, is juſtified by *Lambert* in his *Saxon* Laws. And when in the 9th *Ed.* 2. it was ordained by Parliament, that the *Sheriffs* of the ſeveral Counties of the Kingdom ſhould be nominated by the *Chan-*

2 *Inſtit.* fol. 558. *Lamb.* fol. 146.

cellor, *Treaſurer*, *Barons of the Exchequer*, and the Juſtices; *London* is excepted, foraſmuch as it is expreſly declared, that that Act extends only to ſuch Counties and places, *where the Sherivalty is not in Fee.* And as all *Sherivalties* are ſhut out from being concluded by that *Statute*, which are any ways held in *Fee*; ſo by undeniable and natural conſequence, ſuch *Sherivalties* ſtand ratified and confirmed by theſe two Acts of Parliament to the reſpective Grantees. And whereas *London* had anciently *pro conſulibus vicecomites*, *for its Magiſtrates*, *Sheriffs*; ſo *William* the *Conqueror* in acknowledgment of its ancient Rights, granted and confirmed, *civibus Londini*, *totam dictam Civitatem & vicecomitatum*, *to the Citizens of* London, *the whole City and Sheriffwick thereof.* And as to the *Sheriffwick* of *Middleſex*, Henry 1. Son to *William* the *Conqueror*, *granted it to the Citizens of London and their Heirs at the Farm of* Three Hundred pounds per annum, *ſo that they ſhould chuſe*, *vicecomites quales voluerint de ſeipſis*, *what Sheriffs they pleaſed from among themſelves.* And King *John*, Son to *Henry* the II. did in the firſt year of his Reign, *Demiſe and grant to the Citizens of* London *and their Heirs*, *the Sheriffwick of* London *and* Middleſex, *with all the cuſtoms thereunto belonging*, *to be enjoy'd by them and their Heirs*, *at the Fee-farm of* Three Hundred pounds per annum. Nor it is not unworthy of our remark, that by that *Charter* the ſaid *Citizens have liberty and power to remove their Sheriffs when they pleaſe*, *becauſe as the Charter expreſſeth it*, *the City is to anſwer for their miſdemeanors*, *if they ſhould offend againſt the duty of their office and Place.* To theſe we may ſubjoin the *Charter* of *Hen.* 3. who in the eleventh year of his Reign, *deviſed and confirmed to the Citizens of* London, *the ſaid Sheriffwicks of* London *and* Middleſex, *with all the things and cuſtoms thereunto appertaining.* And all theſe Charters have by *Inſpeximus*'s been confirmed by *Ed.* 1. *Ed.* 2. *Ed.* 3. *Rich.* 2. *Hen.* 4. *Hen.* 5. *Hen.* 6. *Ed.* 4. *Rich.* 3. *Hen.* 7. *Hen.* 8. *Q. Mary*, *Q. Eliz.* *K. James*, *K. Charles* I. *and his preſent Majeſty.* Nay, theſe Rights, Liberties and Juriſdictions of chuſing *Sheriffs* from among themſelves, and turning them out when they will, are not only ratified and confirmed to the Barons or Free-men of *London*, by *Magna Charta*, or the great Charter, and the Statutes of the 18 *Ed.* 1. 9 *Ed.* 2. but by the Statute 1 *Ed.* 3. wherein it is particularly Enacted, *That they ſhall both have all the Priviledges which they have enjoy'd from the time of* Edward the Confeſſor, *and* William *the* Conqueror, *and other the Progenitors of the ſaid* Ed. 3. *tam per cartas quam ſine cartis ex antiqua conſuetudine*, *whether they poſſeſſed them by Charters*, *or without them*, *namely by preſcription.* And it is obſervable, that this Charter of *Ed.* 3. is not a meer Patent, Grant or Charter of the ſaid King, but is it ſelf an Act of Parliament, made in the firſt year of that Kings Reign, and confirmed by *Inſpeximus* in the 2 *Hen.* 8. And conſonant to this Charter and Statute of *Ed.* 3. is the Charter of the 7 *Rich.* 2. which is alſo ratified into an Act of Parliament, and wherein he confirms *unto the Citizens of* London *all their Franchiſes and Priviledges*, *ſive uſi non fuerint*, *ſive abuſi*, *whether they were either ſuch as they had not made uſe of*, *or ſuch as they had abuſed.*

28 *Ed.* 3. *cap.* 8.

Stephanid. & M.ſſ. *in Biblioth Cotton.*

Carta H. 1. *Inſpex* 2 *Hen.* 5.

Ex Original Carta 1 *Joannis.*

cap. 8.

Rot. Parl. 7. *Rich.* 2. *Inſpex* 8. *Jacob.*

Accordingly the Free-men, or Barons of *London*, choſe their Sheriffs, without the leaſt interpoſure of their Mayors, during all the time of *R.* 1. *K. John*, *H.* 3. *E.* 2. *till the* 20 of *Ed.* 3. But then they granted unto their Mayors, the nominating or propoſing one Sheriff, but ſtill with this reſerve, That they ſhould have the ratifying, confirming and chuſing of them. And this reſervation of a Right to

themſelves

themſelves to chuſe Sheriffs, plainly appears by the Act. For the only reaſon of allowing that favour unto the *Mayor*, was upon a ſuppoſal that he had better knowledg than others, who of the Citizens were fit for ſo important an office, which many at that time were willing to decline, by reaſon of an Act of Parliament paſs'd in the ſaid 20*th Ed.* 3. Empowering the Juſtices of Aſſize to enquire into the miſdemeanours of *Sheriffs*, and to puniſh them as Law and Reaſon did require.

And that this Ordinance doth not infringe the Rights and Priviledges of the Citizens to chuſe their own Sheriffs, appears uncontrollaby both by a Clauſe of Common-Council, 49 *Ed.* 3. which ſays, That the Citizens were to be ſummon'd to *Guild-Hall*, *as Electors des Majores & viſcountes, for the Election of Mayors and Sheriffs*; as alſo by the Elections which were made of *Sheriffs* in the 42*d* and 43*d* of *Ed.* 3. which are expreſly ſaid to have been made by the *Mayor*, *Aldermen*, *& quamplurimi clariorum civitatis*, and *many other famous perſons of the* City. And as if this were not enough to inſtruct, that the Rights of the Freemen in the chuſing their *Sheriffs*, were not violated by the Ordinance of the 20*th Ed.* 3. We have another *Act* of Common-Council in the 4*th Hen.* 5. in which it was enacted, That the Citizens ſhould be ſummon'd at ſuch a day for *the chuſing freely and indifferently, Majorem & Vicecomites, Mayor and Sheriffs.*

Vid. lib. civit. ab anno 15. *Ed.* 3.

Ibid.

But whereas they alledg an Act of Common-Council in the 7*th Car.* 1. wherein it is *Ordained and Eſtabliſhed, That the* 24*th of* June, *ſhall be for the confirmation and allowance of ſuch perſons as hereafter ſhall be choſen by the Lord Mayor of this City for the time being, to be Sheriffs of the ſaid City and County of Midd. and for the choice of ſuch other perſons as by the Lord Mayor, Aldermen and Commons ſhall be chouſen to be Sheriffs of the ſaid City and County of Midd.* &c. *I ſay*, in the 1*ſt* place, That this Act of *Common-Council* by acknowledging a Right in the *Common-Hall*, to confirm and allow ſuch as the *Mayor* ſhall Elect, does thereby declare that they have a power not to confirm or allow the ſaid Perſon. For a Right and a Power to allow, without a power to diſallow, were a thing nonſenſical and ridiculous. *Secondly*, I affirm, That this Act of Common-Council in the ſenſe wherein it is conſtructed by the *Mayor* and his Partiſans upon he ſuggeſtions of his little *Imps*, is *ipſo facto* null and void, being expreſly contrary to Charter, Preſcription, and Statute-laws.

And for my Lord Mayor to inſiſt upon it, is not only to perjure himſelf, but to become liable to Indictments for ſubverting the Laws of the Land, as well as the priviledges and juriſdictions of the City. I *thirdly* affirm, That the Lord *Mayors* have upon the Commons conteſting this Prerogative with them, often diſſerted and abandoned it. And for particular inſtances, I refer them to what fell out in the 29*th* of *Eliz.* when my Lord Mayor having drunk to *Richard Platt*, the Common-Hall choſe *Hugh Offler* and *Richard Saltonſtall*; and to what occured in the 32 of *Car.* 2. when notwithſtanding *George Hocknal's* being drunk to, the Commons elected, *Slingsby Bethel*, and *Henry Corniſh*. And beſides, there are many inſtances when the Commons choſe the very perſons that my *Lord* had named, but not till they had firſt ſet aſide his Right and claim'd Prerogative of preſcribing unto them. For example, my Lord *Mayor* having in the 19. *Car.* 1. Nominated and preſented *John Fowke*, the *Commons* refuſed to confirm the Election, till the ſaid *Mayor* had declined his Prerogative and pretence, and referred for that time the Nomination of both the Sheriffs to the *Common-Hall*; upon which having vindicated their Rights, they elected the ſaid *John Fowke* and *James Bunce*. Nay, when in caſes wherein my *Lord Mayor* hath pleaded his Prerogative in this matter, the Houſe of Lords being appealed unto, have upon finding the Commons to withſtand the confirmation of the perſon he had Nominated and Preſented, in effect decided it againſt him, and allowed the *Commons*

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to proceed to the Nomination of both Sheriffs for that time, as appears by an Order of the House of Lords, 1628.

And whereas it is said, That my Lord *Mayor* and Aldermen intend on *Midsummer-day* to continue on the *Hustings* as a Court; I do affirm that such a practice would be contrary both to the Charters of the City, and to ancient custom. For albeit they have a Right of voting in the Election of *Sheriffs*, yet it is only in the quality of *Barons* and *Free-men* of *London*, and not in the rank and under the Character of *Mayor* and *Aldermen*. And therefore if they should pretend to stay, they are to descend and come down from the *Hustings* among the Commoners, and during that affair and transaction lay aside their Grandure, and list themselves among the Livery of the City. Nay, so far back as the 22. *Hen.* 6. We read that the *Mayor* having presented one *Nicholas Wyford* for *Sheriff*, did thereupon, *cum Aldermanis ascendere in cameras superiores*, *remove from the Court, and go into an upper Chamber*. And consonant hereunto, hath the custom and practice been for many ages. The *Sheriffs* for the time being are the only judges of the Election that is then to be made. And as this hath been the Common usage, so it is agreeable to Law and Reason.

Lib. K. fol. 214. in Arch. 2. Lond.

But whereas it is discoursed abroad, That unless my Lord *Mayor* can obtain his will of imposing a Sheriff upon the City, he intends to dissolve the Court; I shall only say, let him do it at his peril. For hereupon not only every Free-man may have an Action against him, as wronging them in the violation of their Rights and Priviledges; but they may Indict him for Perjury both in violating his Oath not only as Mayor, but as a Free-man, and also as a subverter of the Laws of the Kingdom, and the Rights and Priviledges of this famous Corporation. Nay, upon the dissolving the Court without the Election of Officers, he would at once offend against an *Act* of the *Common-Council*, which appoints the 24*th* of *June* for the Election of Sheriffs; and withal leave the City without a *Chamberlain* and Bridg-masters. And as upon the non-election of a *Chamberlain*, no Moneys can be issued out of the Chamber, seeing there is none that hath Authority to do it; so his Lordship must expect to be liable to all the Actions that persons having money arising from thence, shall think fit to commence. Nay, his Lordships standing upon the Prerogative of chusing one Sheriff, is industriously to betray the Charter of the City, forasmuch as the plea put in against the *Quo Warranto* proceeds directly upon this principle and foundation, *viz.* That the Free-men have Right acording to Prescription and Charter of chusing *annually* two Sheriffs.

Upon the whole, Gentlemen and Citizens, you now understand what your Priviledges and Rights are, and pray remember, That by your Oaths *you are bound to maintain the customs and Franchises of the City.*

Nor can you be ignorant that the design of wresting from you the Priviledge of chusing the *Sheriffs*, is meerly in order to hang as many of you as a few men whom I forbear to mention shall think meet. Did ever any of our former State-Ministers concern themselves in these matters? Alas! there were not heretofore such machinations carried on against our Lives, Laws and Fortunes.

And therefore accordingly as you shall acquit your selves in this affair, you may expect either to live safely, or to become sacrifices to a few men, who having forfeited their own heads to the Law, would preserve them by an exchange for yours.

I need not mention the *form* of my Lord Mayors late Precepts, you are all acquainted with it, and cannot but be sensible that it differs from all you have heretofore seen, and that it directly overthrows your Charter, and all the Priviledges of it. Farewel.

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